

Amendment D to SN 09/879,709
Page 12 of 14

Remarks:

Applicant appreciates the allowance of claims 15 and 18-21.

In the July 30 Office Action, claims were rejected for "new matter" with respect to three claimed features:

1. (from claim 1) that the balls are the most rigid elements that extend radially to span the space between the tire and rim.
2. (from claim 1) that "at least some of" the balls are independent of the tire and rim and are free to shift circumferentially.
3. (from claim 6) "repeating pattern"

With respect to the third feature, as stated in the summary of the August 17 interview, it was agreed that the use of the phrase "repeating pattern" did not constitute new matter.

With respect to the first feature, it was agreed that, if the Applicant would more clearly define the space through which the balls extend in order to distinguish it from the space spanned by the rim lock, the problem would be resolved. Claim 1 has been amended to include tire edges and a tread area and to require that the balls be the most rigid elements that extend radially from the tire edges to the tread area. Applicant trusts that this clearer definition of the space spanned by the balls resolves the problem. While the rim lock extends width-wise across the tire between the tire edges, it does not extend radially outwardly to the tread area. This can be contrasted with the Krum reference, in which the inflatable elements C have stiff end members c, which extend radially from the tire edges to the tread area. In the Krum design, these more rigid elements would create a rough ride, whereas the design recited in claim 1, in which the balls are the most rigid elements that extend radially from the tire edges to the tread area, provides a smooth ride.

While the areas of the tire edges and of the tread are somewhat general areas, not precisely measurable with a micrometer, it will be clear whether a product meets the claim limitations. The limitation requiring the balls to extend radially from the tire edges to the tread area and to be the most rigid elements that extend radially from the tire edges to the tread area means that there will be only a single layer of balls in the radial direction and that there will be nothing more rigid than the balls that extends across the same radial space as the balls. This distinguishes the claimed invention from the Krum design, where more rigid elements than the balls extend radially from the tire edges to the tread area, creating a bumpy ride.

Amendment D to SN 09/879,709
Page 13 of 14

With respect to the second feature, Applicant understands that the Examiner considers the "at least some of" language in the claim to constitute new matter, because he interprets it to be specifically claiming an embodiment in which at least one ball is fixed in position, when such an embodiment is not shown or described in the specification. Applicant disagrees with this new matter rejection as explained in a previous amendment. However, Applicant can achieve his original goal of the "at least some of" language in another way, which should be more acceptable to the Examiner. The "at least some of" language has been removed from claim 1, which should eliminate the Examiner's objection. The claimed invention now recites a plurality of balls which are independent of the tire and rim and free to shift circumferentially.

It is understood that the embodiments of the invention that are shown and described in the specification are just examples, and that many modifications can be made to these embodiments without departing from the scope of the claims. In other words, it is not necessary to make a carbon copy of the examples taught in the specification in order to infringe the patent; it is only necessary to make a product that meets the claim limitations.

Since claim 1 uses "comprising" language, as long as a product meets the limitations of this claim, it infringes this claim, even if additional elements are added in addition to the claimed elements. So, for example, if an additional ball which is not free to shift circumferentially were added, the product would still infringe claim 1, as long as it still met all the claim limitations. Applicant is not intending to specifically claim a particular embodiment that is not shown, but he is intending to claim his invention broadly enough to prevent someone from taking full advantage of the invention while avoiding infringement simply by adding another element, such as a fixed ball. That was the reason the Applicant used the "at least some of" language. Since the "comprising" language achieves the same practical result, Applicant is willing to remove the "at least some of" language. This should resolve the Examiner's "new matter" issues while still preventing a competitor from avoiding infringement simply by making a minor deviation from the example shown in the drawings.

Amendment D to SN 09/879,709

Page 14 of 14

With the new matter rejections being resolved, all the claims should now be allowable in view of the prior art. Therefore, Applicant respectfully requests allowance of all the pending claims.

Respectfully submitted,



Theresa Fritz Camoriano

Reg. No. 30,038

Camoriano and Associates

8225 Shelbyville Road

Louisville KY 40222

phone 502-423-9850

fax 502-426-1167